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Author

Daniel Huws.

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JISC



LEGES HOWELDA AT CANTERBURY

PENIARTH MS 28 in the National Library of Wales has long been accepted as our earliest text, in Welsh or Latin, of the laws of Hywel Dda. It provides Redaction A in Dr. Emanuel's definitive edition of the Latin texts.¹ This note is to record something new about the history of the manuscript; by way of coda, it offers a new opinion on its date.

The National Library of Wales belongs to a distinguished company of libraries concerning whose medieval bindings there is much to regret. Of the hundred odd medieval Peniarth manuscripts only three (none of them Welsh) survive in an original binding. Pen. 28 when Gwenogvryn Evans saw it was in 'old oak covers'.² In 1940 it was re-bound. By better fortune than has sometimes been the case, something of the old binding was kept. What appear to have been the upper cover (of thin, smooth whittawed skin) and two pastedowns are now laid down on modern parchment leaves at the end of the book, numbered ff. 29-31³; the boards, which would have told us more, have gone. The pastedown on f. 30^v preserves one previously un-noticed and somewhat unexpected piece of evidence: the pressmark of St. Augustine's Abbey, Canterbury.

Pen. 28 has no St. Augustine's *ex libris* inscription, but in this respect it is far from being alone among St. Augustine's books. The pressmark, comprising *distinctio* and *gradus* (book-case and shelf) numbers, is written in dark brown ink, no longer very conspicuous, in the top right hand corner of the pastedown (originally inside the upper cover): D' xvi G' iii. Preceding the pressmark, written in the same ink, partly illegible, even under ultra-violet light,⁴ comes 'W . . . holte', and immediately above it, in yellower ink, 'Leges Howelda Wallici', all in fourteenth-century hands, see plate 5b. The pressmark may be compared with the three St. Augustine's specimens reproduced in *New Palaeographical Society*, Series I, pl. 17. By an improbable coincidence one of the three reproduced, that on f. 4 of B.L. Harl. MS 3644, is not only in a similar hand and ink to that of Pen. 28 but shares with it the same *distinctio* and *gradus* numbers.

The St. Augustine's library catalogue of c. 1491-7, printed by M. R. James,⁵ lists over 1800 books but was never completed.⁶ Notably, for our purpose, it lists no Common Law books. And many books known to have been at St. Augustine's are not included.⁷ To these Pen. 28 must be added. St. Augustine's besides being a well if incompletely catalogued library was a well classified one. Because of its incompleteness the catalogue does not tell us what was kept in *distinctio* xvi. James's inference that it held Canon Law has to be rejected in the light of Ker's fuller list of surviving St. Augustine's books and their pressmarks.⁸ Two manuscripts besides Pen. 28 have the pressmark D' xvi G' iii, Harl. 3644 and York Minster xvi. D. 6. Both are Common Law books, a Briton and a Bracton, and they are the only surviving Common Law books from St. Augustine's to bear pressmarks. So, English Common Law was at D' xvi G' iii, and that, reasonably enough, was where someone saw best to shelve *Leges Howelda Wallici*.

The name of the donor was often written in St. Augustine's books in conjunction with the short title and pressmark. Probably what we have in Pen. 28 is 'W. Byholte'.⁹ William Byholte or de Byholte, a prior of the abbey, gave at least 27 books to St. Augustine's, covering many subjects; two of his manuscripts suggest an interest in law and public affairs.¹⁰ Dr. Emden has collected the references to him, showing him active in the years 1292-1318.¹¹

Pen. 28 was at St. Augustine's by the fourteenth century. The most notorious Canterbury student of the Welsh laws before this time is Archbishop John Peckham. When he wrote to Llywelyn ap Gruffydd in October 1279 complaining of the Prince's infringement of liberties of the Church, Peckham showed knowledge of the laws of Hywel Dda, though only by hearsay: 'contra quae opponitis . . . leges Howeli Da, quae Decalogo dicuntur in diversis articulis obviare'.¹² When, in November 1282, after the terms of peace proposed by him had been rejected, Peckham sent his letter of general denunciation of the morality of Llywelyn and the Welsh, he twice referred to the laws of *Howelda* and makes it clear that this time it was a written text he had seen: 'ac Howelda . . . in lege sua, quam vidimus'.¹³ In this letter Peckham included among the sins of the Welsh their casual regard for the indissolubility of marriage and their allowing inheritance to illegitimate offspring. In Pen. 28, in the section concerning the separation of husband and wife, ff. 18^v - 20, there occur in the margin a number of crosses and *nota* signs, drawing attention to several of the features of the laws of Hywel Dda that would have seemed most outlandish to a person of Peckham's views.¹⁴ Were these made by clerks reading on Peckham's behalf, or even by Peckham himself? It would be gratifying to discover that William Byholte had in his younger days served with Peckham. Besides Peckham, there were of course other thirteenth-century Englishmen with an interest in the laws of Hywel. No doubt, in the years after 1277 when the Crown was much concerned with Welsh Law, or its circumvention,¹⁵ some of Edward I's officers acquired copies of the laws. Pen. 28 might conceivably have passed through such hands on its way to Canterbury, though it should be said that its margins betray no marks of interest in the great issue between Edward and Llywelyn, the determination of pleas.

There is next to no internal evidence as to where Pen. 28 spent the years between the Dissolution (supposing it remained at St. Augustine's until then) and its acquisition by Robert Vaughan.¹⁶ Many St. Augustine's manuscripts came into the possession of Dr. John Dee, a collector who would particularly have prized this one, but nothing like it appears in the surviving lists of his collection,¹⁷ nor does it show signs of his hand. A long sojourn outside Wales would explain one thing: the relative absence of marginalia, compared with most medieval Welsh manuscripts. After Peckham's time it would have found few readers.

The observations on Pen. 28 that follow have nothing to do with the Canterbury connection. Gwenogvryn Evans dated the manuscript to the last quarter of the twelfth century. This dating appears to have been accepted by all twentieth-

century scholars and was given new authority by Dr. Emanuel. Two scholars of the last century had been of a different opinion. Aneurin Owen described Pen. 28 (at that time Hengwrt MS 7) as 'early thirteenth century'¹⁸ and W. E. W. Wynne as 'thirteenth century'.¹⁹ There are grounds for thinking they were nearer the mark. The smaller and less formal book hand and the two-column layout of the small page give Pen. 28 a thirteenth-century look, but they had been in use for a decade or two before 1200; the degree of lateral compression of the script on many pages of Pen. 28 would on the other hand be unusual before 1200, and so too would the marked fusion of counter-curved adjacent strokes, or 'biting' (see **de, do, da, dd, be, po** in plate 5a), one of the stamps of 'Gothic'. Other features of Pen. 28 point farther into the thirteenth century. During the twelfth century there developed in document or 'court' hand distinctive capital letter forms characterised by otiose and duplicated strokes within the body of letters. These came to be used with the smaller book hand, occasionally before 1200, commonly by the middle of the thirteenth century. Many of them occur in Pen. 28; notice in plate 5a the forms of **O, M, Q, S** (col. 2 line 3), **A** and **N**. Another form favoured by the Pen. 28 scribe, likewise derived from document script and common in the smaller book hand by mid-century is a long-tailed **g**, particularly prominent when free to extend into the left-hand or lower margin, see examples in both plates. I don't know that the horizontal stroke joining the tops of the ascenders of **ll** or **lb** appears before 1200, or that it is at all common before 1250; it occurs often in Pen. 28.²⁰ About the year 1230, as Neil Ker has taught us,²¹ the best English scribes adopted a practice of writing the first line of a page below rather than above the top ruled line. This practise is followed in Pen. 28. It seems unlikely that a Welsh scribe would have anticipated English fashion in this respect²² (that the scribe of Pen. 28 was Welsh is fairly certain, as Dr. Emanuel points out). On ff. 18 and 20^v Pen. 28 has two-line green initials with red pen flourishes of half-column length. Crude specimens though they are, these flourishes seem in their length to represent a fashion that only became well established in the second quarter of the thirteenth century and would be hard to exemplify before 1200.²³ Lastly, there are the often-reproduced drawings of Pen. 28. These are hardly professional work. Perhaps they are by the scribe — they seem to be in the same ink as the text. The drawing on f. 1^v, of the king on his throne (see plate 6), stands quite apart from the others. It is of a far higher degree of sophistication, clearly reflecting a different quality of archetype, one belonging to a recognisable and non-Welsh lineage. I am grateful to have had the comments of Dr. George Henderson, kindly passed on to me by Morfydd Owen. Dr. Henderson would date the archetype of this drawing about 1200. All considered, a thirteenth-century date for Pen. 28 seems inescapable; 'mid-thirteenth century' is what I would propose. The careful if not entirely expert production of Pen. 28 and its furnishing with drawings suggest that it may have been written for some person of importance, someone other than a lawyer. I am not sure that we can exclude

a possibility that Peckham might have been that person, a suggestion mainly intended to emphasise that 'mid-thirteenth century' is a rough term for a period whose bounds might be as wide as 1230 and 1282.

Granting it such a date, there are features of Pen. 28 that can only be viewed as old-fashioned: the frequent use of majuscule **R** instead of the minuscule, use of the ampersand instead of the tironian *nota* (two archaisms common in thirteenth-century liturgical manuscripts), use of green rather than blue for the large initials, even, when at its least compressed, the somewhat rounded look of the writing. We have learnt to expect to see archaic features in Welsh manuscripts.²⁴

DANIEL HUWS

Aberystwyth

- ¹ H. D. Emanuel, *The Latin Texts of the Welsh Laws*, 1967. See pp. 97–98 for particulars of Pen. 28 not touched on here.
- ² Historical Manuscripts Commission, *Report on Manuscripts in the Welsh Language*, 1898–1910, I, p. 359.
- ³ The cover on f. 29 has pasted onto it a label (one of Richard Llwyd's, c. 1806) and so presumably was the upper one. The parchment leaves laid down on ff. 30^v and 31 show on the dorse, when held to the light, dark fragments of adhering matter and traces of the pattern of wood grain and so presumably were pastedowns and not flyleaves. That on f. 31 has off-set writing from f. 28^v, the last page of the manuscript. That on f. 30^v must therefore have belonged to the upper board. The edges of cover and pastedowns have been trimmed.
- ⁴ The ultra-violet light makes more conspicuous what looks like a chemical stain around the writing.
- ⁵ M. R. James, *The Ancient Libraries of Canterbury and Dover*, 1903.
- ⁶ *Ibid.*, pp. lix–lx.
- ⁷ *Ibid.*, pp. lx and 531–4, supplemented by N. R. Ker, *Medieval Libraries of Great Britain*, 2nd edn., 1964, pp. 40–47.
- ⁸ Ker, *op. cit.*
- ⁹ No other known donors have names ending in *-holte*.
- ¹⁰ Lambeth MS 1213 and B. L. Arundel MS 310. For his other MSS see James, *op. cit.*, p. 538 *s.n.* Byholte.
- ¹¹ A. B. Emden, *Donors of Books to St. Augustine's Abbey Canterbury* (Oxford Bibliographical Society, Occasional Publication no. 4), 1968, p. 7.
- ¹² *Registrum epistolarum fratris Johannis Peckham*, ed. C. T. Martin (Rolls Series), 1882, I, p. 77.
- ¹³ *Ibid.*, II, p. 475.
- ¹⁴ Crosses formed by five dots appear in the margin beside the following sentences (page references to Emanuel's edition): *De vestimentis lecti* . . . (143), *Si quis dimiserit* . . . (143), *Si quis duxerit uxorem* . . . (143), *Tribus de causis* . . . (145), *Si quis ducat uxorem* . . . (146); a *nota* beside the following: *Regi vero reddet virgam* . . . (144), *Si mulier viro verbum* . . . (145), *Si femina habens maritum* . . . (145); and a stroke beside: *Si pro certo habeatur corrupta* . . . (144).
- ¹⁵ See J. Conway Davies, *The Welsh Assize Roll 1277–1284*, 1940, Introduction.
- ¹⁶ The sixteenth-century hand that noted the word *mitra* on f. 19 seems to offer the only clue.
- ¹⁷ M. R. James, *Lists of Manuscripts formerly owned by Dr. John Dee* (Supplement to the Bibliographical Society's Transactions), 1921.
- ¹⁸ *Ancient Laws and Institutions of Wales*, 1841, I, p. xxxii.
- ¹⁹ *Archaeologia Cambrensis*, 3rd Series, XV (1869), p. 212. Cf. a note by Wynne at the end of Pen. MS. 42: 'Mr. Holmes, of the British Museum, pronounces this MS. to be of the 13 Century but not quite so early as the copy of the Welsh Laws, in Latin, No. 7 of this, the Hengwrt, Collection.'
- ²⁰ This stroke, especially in facsimiles, is sometimes hard to distinguish from the bridge between the ascenders formed by the meeting of two distinct capping strokes. Instances of both may be seen on f. 1^v (plate 4), f. 4 (p. 7) reproduced as a frontispiece in *Aberystwyth Studies*, X, and [J. E. Lloyd], *Hywel Dda, 928–1928*, 1928, p. 39, and f. 3^v (p. 6) reproduced *ibid.*, p. 37.
- ²¹ 'From 'above top line' to 'below top line': a change in scribal practice', *Celtica*, V, pp. 13–16.
- ²² In the absence of early dated examples, comparison of Welsh manuscripts has to be mainly with their nearest relations, which from the twelfth century on must be English manuscripts. Many developments are found somewhat earlier on the Continent than in England and one has to allow for the possibility that in our period Wales, particularly through her Cistercian houses, might conceivably have received scribal fashions straight from France, though a case for such influence has yet to be made.
- ²³ This, like several other observations, rests largely on the evidence of the facsimiles in the volumes of the *Palaeographical Society* and *New Palaeographical Society* and in those of *Manuscripts Datés*: C. Samaran and R. Marichal, *Catalogue des manuscrits en écriture latine portant des indications de date de lieu ou de copiste*, 1959–, I, II, III, V, VI, G. I. Lieftinck, *Manuscripts datés conservés dans les Pays-bas*, 1964, and F. Masai and M. Wittek, *Manuscripts datés conservés en Belgique*, 1968–, I.
- ²⁴ N. Denholm-Young, *Handwriting in England and Wales*, 1954, pp. 42–43.